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October 29, 2018

VIA ECF

Honorable Lois H. Goodman, U.S.M.J.
United States District Court for the District of New Jersey
Clarkson S. Fisher Federal Building & U.S. Courthouse
402 East State Street
Trenton, New Jersey 08608

**Re: *In re Effexor XR Antitrust Litigation*
Master Docket No. 11-cv-05479 (PGS-LHG)**

Dear Judge Goodman:

This firm, together with White & Case LLP and Paul, Weiss, Rifkind, Wharton & Garrison LLP, represents Defendants Wyeth LLC, Wyeth Pharmaceuticals, Inc., Wyeth-Whitehall Pharmaceuticals LLC, and Wyeth Pharmaceuticals Company (collectively, "Wyeth") in the above-captioned matter.

Pursuant to Judge Arpert's request at the October 4, 2018 motion hearing in the *Lipitor* matter, we write on behalf of all parties to provide the below list of discovery issues that remain open.

June 6, 2018 discovery letter (Docket No. 528)

The parties submitted a discovery letter outlining a number of issues on which there was disagreement:

- Whether Wyeth should search the files of Wyeth employees that Wyeth identified in its Rule 26 Initial Disclosures (pages 6-8)
- Whether direct purchaser and retailer Plaintiffs must produce documents and data regarding a number of additional drugs identified by defendants (pages 8-17)
- Whether Plaintiffs must produce "downstream" discovery (pages 18-24)
- Whether retailer Plaintiffs must produce documents from third-party assignors (pages 24-26)

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- Whether Plaintiffs must produce information they claim is protected by privilege (pages 26-28)
- The appropriate time period for conducting certain searches for discoverable materials (pages 28-30)

These issues remain unresolved.¹

Expert disclosure stipulation (Docket No. 455-3)

As the Court will recall, the parties submitted an agreed upon Expert Disclosure Stipulation. Dkt 455-3. That stipulation has not yet been adopted by the Court.

Non-party subpoenas (Docket Nos. 552, 555 and 556)

End-Payor Plaintiffs (“EPPs”) and Defendants submitted letters relating to third-party subpoenas that Defendants served upon third-party payors and pharmacy benefit managers. EPPs argue, and Defendants dispute, that these subpoenas are improper because they were directed to putative end-payor class members and/or seek documents that are the subject of current discovery disputes outlined in the June 6, 2018 discovery letter.

We thank the Court for its time and attention to this matter. As always, we are available should Your Honor have any questions.

Respectfully submitted,

/s/ Liza M. Walsh

Liza M. Walsh

cc: All Counsel of Record

¹ The first issue addressed in this joint discovery letter (whether Wyeth should produce complete document families, including all related email attachments and embedded files (pages 1-6)) has been resolved by the parties. See Dkt. No. 547 (informing the Court that this issue has been resolved by agreement).